

## **REMARKS / ARGUMENTS**

### **I. General Remarks**

Please consider the application in view of the following remarks. Applicants thank the Examiner for his careful consideration of this application, including the references submitted in this application and, pursuant to MANUAL OF PATENT EXAMINING PROCEDURE § 609.02, all references submitted in the patent applications to which this application claims priority under 35 U.S.C. § 120.

### **II. Disposition of Claims**

Claims 1-13, 15-41 and 63-66 are pending in this application. Claims 14, 42-62, and 67-88 were cancelled in a previous response.

### **III. Remarks Regarding the Specification**

The Examiner has noted that certain trademarks used in paragraph [0028] of the specification "should be capitalized wherever it appears and be accompanied by the generic terminology." Applicants have amended the specification to include appropriate generic terminology for these trademarks per the Examiner's request. No new matter is presented in these amendments.

### **IV. Rejections of Claims**

#### **A. Rejections Under 35 U.S.C. § 112, First Paragraph**

Claims 1-41 and 63-66 stand rejected under 35 U.S.C. § 112, first paragraph, on the grounds that the specification does not enable any person skilled in the art to which it pertains to practice the invention commensurate in scope with the claims. With respect to these rejections, the Office Action states:

Claims 1-41 and 63-66 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for certain species of solid emulsifying particles (such as the modified silicas and metal sulfates disclosed in paragraphs [0026] and [0027] on pages 9 and 10, respectively, of the specification), does not reasonably provide enablement for every type of organic or polymer/resin particles, such as, e.g., the "organically modified polymer" or "polymer or combination of polymer" recited in claims 21 and 22, respectively. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims.

The present specification does provide sufficient guidance to practice the claimed method using certain emulsion facilitating particles, such as the aforementioned modified silicas and metal sulfates. However, it does not provide sufficient guidance to practice the claimed invention to determine, without undue experimentation, which solid particles would be "emulsion facilitating" from, e.g., the numerous possible polymers, combination of polymers, and "organic modified" materials known to man under the sun as recited in claims 21 and 22. Due to the lack of sufficient specificity from the present specification (and claims) to be able to determine which solid particles would be "emulsion facilitating" and thereby suitable to perform the present method of treating a subterranean formation, without going beyond routine experimentation, the instant claims are accordingly not enabled by the present specification. See, *In re Wands*, 858 F.2d 731,737,8 USPQ 2d 1400,1404 (Fed. Cir. 1998); MPEP 706.03(c) and 2164.01(a).

(Office Action at 3-4). Applicants respectfully disagree with these rejections. The *Manual of Patent Examining Procedure* sets forth the standard for rejections based on lack of enablement of the full scope of a claim.

The determination of the propriety of a rejection based upon the scope of a claim relative to the scope of the enablement involves two stages of inquiry. The first is to determine how broad the claim is with respect to the disclosure. ... The second inquiry is to determine if one skilled in the art is enabled to make and use the entire scope of the claimed invention without undue experimentation.

*Manual of Patent Examining Procedure* (hereinafter "MPEP") § 2164.08 (2008). Under this standard, Applicants' specification enables the full scope of claims 1-41 and 63-66.

In determining of the propriety of a rejection based upon the scope of a claim relative to the scope of the enablement, "[t]he entire claim must be considered," including those limitations found in the independent claims to which a dependent claim refers. See *id.* Applicants respectfully note that the rejected claims specifically limit the emulsion facilitating particles to those particles having a fluid contact angle in the range from about 70° to about 140° (see independent claims 1, 29, and 63). Thus, Applicants must only enable the claimed invention with respect to this scope. Methods of measuring the fluid contact angle of a material are routine and well known in the art. See, e.g., Yongan Gu, "Contact Angle Measurement Techniques for Determination of Wettability" in *Encyclopedia of Surface and Colloid Science*, 1213-1226 (Arthur T. Hubbard ed., 2002) (a courtesy copy of this reference is included with this filing for

the Examiner's convenience). Any person of skill in the art could apply these methods to determine whether a particular solid material would be suitable as an emulsion facilitating particle as claimed.

Moreover, for a claimed genus, representative examples together with a statement applicable to the genus as a whole will ordinarily be sufficient if one skilled in the art (in view of level of skill, state of the art and the information in the specification) would expect the claimed genus could be used in that manner without undue experimentation. See MPEP § 2164.02. Applicants have identified several examples of certain polymeric materials (e.g., ALCOSPERSE 747®, ALCOQUEST® 747, hydrophobically-modified acrylic copolymers) that may be suitable sources of the emulsion facilitating particles of the present invention. With these examples and the teachings in Applicants' claims and specification regarding the appropriate fluid contact angle for the emulsion facilitating particles, a person of skill in the art would be able to identify other suitable polymeric materials using information known in the art and routine experimentation. In instances such as this where the specification provides specific examples of a claimed category of materials, "[p]roof of enablement will be required for other members of the claimed genus only where adequate reasons are advanced by the examiner to establish that a person skilled in the art could not use the genus as a whole without undue experimentation." MPEP § 2164.02. The Office Action does not set forth any such reasons why a person of skill in the art could not accomplish this.

**B. Rejections of Claims 1-9, 11-41, 63, 65, and 66**

The Office Action states that claims 1-9, 11-41, 63, 65, and 66 stand rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,990,050 to Patel ("*Patel*") in view of a reference entitled "Amphiphilic Copolymers," from *Langmuir* (1998) by P. Perrin ("*Perrin*") as further evidenced by several references. With respect to these rejections, the Office Action states:

Claims 1-9, 11-41, 63, 65 and 66 are rejected under 35 U.S.C. 102(b) as being unpatentable over Patel and Perrin, as further evidenced by USPN 4,727,097 to Kobayashi et al., USPN 4,735,987 to Morita et al.; USPN 4,806,578 to Kobayashi et al., USPN 4,826,680 to Lesniak et al., USPN 6,107,358 A to Harada et al., and Japanese Abstract to JP 360179485 A to Miyayama et al. [Examiner notes that these references were cited in a previous Office Action and are relied upon only as evidence of what is

commonly known in the art and not as grounds for the instant rejection.]

Patel discloses a drilling/working fluid, to be use in a subterranean formation, having an invert emulsion fluid that includes an oleaginous fluid (continuous phase) having an oil and an oil-soluble glycol ether that can be miscible in oil but only 10% miscible in water, a non-oleaginous fluid, and an emulsifier to stabilize the invert emulsion. (Abstract; col. 2, lines 17-42; col. 3, lines 12-21; col. 4, lines 8-24; col. 12, lines 2-65; col. 13, line 1 to col. 14, line 14) Patel discloses that the non-oleaginous fluid can be deionized water, fresh water, seawater and/or organic/inorganic brines and that it is present in an amount of from about 1 to 70% by volume of the total invert emulsion volume. (Col. 4, lines 24-40)

Patel discloses the drilling fluid to further contain wetting agents or emulsifiers, such as crude tall oil, oxidized crude tall oil, alkyl aromatic sulfates and sulfonates; organophilic clay; an oil-soluble polymer or a polyamide resin as a viscosifier; weighting agents; fluid loss control agents; and corrosion inhibitors, such as silicates. (Col. 5, lines 1-15 and 22-63) Patel lists a series of emulsifiers (e.g. VERSACOAT®) followed by an alternate, separate list of surfactants, which can be instead used to produce or stabilize the invert-emulsion. Thus, Patel does not require that the invert-emulsion contain a surfactant. (Col. 5, lines 15-22; See, e.g., Example 1, wherein Patel discloses an example of the emulsion containing a glycol ether, organophilic clay, VERSACOAT® emulsifier, a silicone emulsifier, lime, barite and a calcium chloride brine)

However, Patel does not disclose the emulsifier to be a solid, polymeric emulsifier nor does Patel disclose the particle size of the emulsifier.

Perrin teaches the use of a non-toxic, polymeric emulsifier to produce a rapid formation of a crystalline array of micrometer oil cells surrounded by a thin layer of aqueous polymer solution using a simple shear in-situ emulsification procedure. (Abstract).

Perrin also teaches the polymeric emulsifier to be a hydrophobically-modified poly(sodium acrylate) having hydrophobic alkyl chains grafted onto a negatively charged backbone (solid) and that its molecular weight of 50,000 g/mol. The amount of polymer required to stabilize the emulsion is 4% by volume and the cells produced by the emulsion have a diameter of 31µm. (Pages 5977-78)

Perrin further teaches that using the amphiphilic polymer to form the emulsion provides for a more uniform monodisperse emulsion

having enhanced stability due to, inter alia, their exceptional resistance to film breaking. (Pages 5978-79)

Perrin teaches the polymeric emulsifier to be a hydrophobically-modified poly(sodium acrylate) having hydrophobic alkyl chains grafted onto a negatively charged backbone having a molecular weight of 50,000 g/mol. It is well known that polysodium acrylate (PSA), and grafted and/or crosslinked polymers thereof, are water-swellaable, solid, resin materials commonly used as water-absorbents in various applications. (See, e.g., USPN 4,727,097 to Kobayashi et al., col. 2, lines 16-47 disclosing grafted PSA polymers as highly water-absorptive resins; USPN 4,735,987 to Morita et al., col. 1, lines 17-41, teaching polysodium acrylate polymers as advantageous water-absorbent resin polymers; USPN 4,806,578 to Kobayashi et al., col. 2, line 43 to col. 3, line 14, disclosing PSA and grafted starch-PSA polymers as hydrophilic water-absorptive resin agents; USPN 4,826,680 to Lesniak et al., col. 3, lines 19-52; claims 5, 9, 18 and 22, teaching crosslinked PSA polymers as effective water-insoluble, water-swellaable resin materials; USPN 6,107,358 A to Harada et al., col. 1, lines 23-35, teaching cross-linked PSA as a typical example of a water absorbent resin; and the Japanese Abstract to JP 360179485 A to Miyayama et al., disclosing a graft of starch with PSA as a high-molecular, water-swellaable material for "waterstopping"). Consequently, because PSA and grafts thereof are known as water insoluble, water-swellaable absorbent resin materials, they must be solid particles in at least the aqueous phase in Patel's invert emulsion (or in the presently claimed fluid).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time that the invention was made, to use Perrin's solid amphiphilic polymer as the emulsifier in the invert-emulsion used in Patel's method of drilling/treating a subterranean formation. It would have been obvious to one skilled in the art to use said amphiphilic polymer in Patel's drilling fluid in order to incorporate Perrin's teachings and attain a more uniform and stable emulsion and, thus, a more efficient and cost-effective method of drilling/treating a formation.

Although Patel does not specifically disclose contact angles for the various emulsion phases (claims 14-17), because the emulsion disclosed by Patel and that encompassed by the instant claims are the same, then both emulsions must inherently possess the same physical properties, such as contact angle.

(Office Action at 4-7). In response to Applicants' prior remarks regarding these rejections, the Office Action states:

Applicant's arguments in the response to OA filed October 5, 2007 (hereinafter 'Response') with respect to the 35 U.S.C. 103(a) rejection of claims 1-9, 11-41, 63, 65 and 66 as unpatentable over *Patel* in view of *Perrin* have been fully considered but deemed unpersuasive.

Applicant's argument concerning *Perrin* not expressly teaching the emulsion facilitating particle to be "solid" was addressed above in the rejection as presented in the instant action.

In response to Applicant's arguments concerning *Patel* not disclosing the fluid contact angle of its emulsifying particles, as stated previously, because the prior art discloses a composition for treating a subterranean formation containing solid particles encompassed by the present claims, then both sets of solid particles should possess the same properties, such as fluid contact angle. Examiner notes that the reference submitted by Applicant regarding measuring fluid contact angles (in water) does not provide evidence demonstrating as to why the particles taught in the prior art are not "emulsion facilitating" and/or have the same fluid contact angle.

In response to Applicant's arguments regarding *Patel* not disclosing a surfactant free composition, as stated above, *Patel* teaches that the composition can contain wetting agents or emulsifiers. Accordingly, the treating composition disclosed in *Patel* need not contain a surfactant. As discussed in the prior Office action, the surfactants disclosed in *Patel* are examples of a preferred embodiment. "Disclosed examples and preferred embodiments do not constitute a teaching away from a broader disclosure or nonpreferred embodiments." In re *Susi*, 440 F.2d 442, 169 USPQ 423 (CCPA 1971). Furthermore, it is unclear as to why the "emulsion facilitating particles" recited in the present claims would not be considered an "emulsifier" in context with *Patel* and in accordance with present claims.

Thus, the instant claims remain unpatentable over *Patel* and *Perrin*.

(Office Action at 9-10 (emphases omitted)). Applicants respectfully disagree with these rejections.

Initially, Applicants note that any rejection under § 102(b) over *Patel* or *Perrin* is improper since neither *Patel* nor *Perrin* discloses every element of these claims, as the Office Action itself acknowledges. (See Office Action at 6 (first paragraph)). Moreover, the combination of *Patel* and *Perrin* in the manner described in the Office Action cannot form the basis for a rejection under § 102(b). See MPEP § 2131.01 (multiple reference rejections under § 102 generally not allowed). In the interests of advancing the prosecution of this case,

Applicants will respond to the Examiner's rejections as rejections under 35 U.S.C. § 103(a). However, Applicants respectfully request that the Examiner clarify the record regarding these rejections.

To form a basis for a § 103(a) rejection, a combination of prior art references must teach or suggest each element in the claim. MPEP § 2142. The prior art must also suggest the combination of the prior art to produce the claimed invention. *Id.* at § 2143.01. The combination of *Patel* and *Perrin* does not teach or suggest each element of Applicants' claims, nor does it suggest a combination of *Patel* and *Perrin* that would produce the inventions recited in Applicants' claims.

**1. The PSA Materials in *Perrin* Do Not Teach or Suggest Solid Particles.**

First, Applicants respectfully maintain that neither *Patel* nor *Perrin* teaches the use of solid emulsion facilitating particles, as recited in claims 1, 29, and 63, for the reasons stated in their previous responses. The Office Action cites several unrelated references that describe water-swellaable resins comprising poly(sodium acrylate) ("PSA"), and asserts that these references show that the PSA materials in *Perrin* must be solid particles. However, as Applicants have previously stated, there is no indication that the PSA materials in these references are necessarily equivalent to those described in *Perrin*, or that PSA materials in *Perrin* or those other references necessarily takes the form of a "solid" particle. None of the references cited by the Office Action actually describe a "solid" or use that term. Nor does their characterization of PSA materials as "swellaable" imply that they are solid. Indeed, certain swellaable PSA materials known in the art are non-solid hydrogels. See Sageghi *et al.*, "Synthesis and Swelling Behavior of Starch-Poly(Sodium Acrylate-co-Acrylamide) Superabsorbent Hydrogel," 32 *Turk. J. Chem.* 375-388 (2008) (a courtesy copy of this article is included with this filing for the Examiner's convenience). Thus, *Perrin* does not inherently disclose or teach solid emulsion facilitating particles, as Applicants' claims require.

**2. The Materials in *Patel* and *Perrin* Do Not Necessarily Have a Fluid Contact Angle From About 70° to about 140°.**

Moreover, Applicants respectfully maintain that neither *Patel* nor *Perrin* teaches emulsion facilitating particles have a fluid contact angle from about 70° to about 140°. The Office Action admits that neither *Patel* nor *Perrin* specifies this element, but simply asserted that the emulsions disclosed in *Patel* are encompassed by Applicants' claims and thus "must

inherently possess the same physical properties, such as contact angle.” (Office Action at 7). Applicants respectfully disagree.

First, as discussed above, *Patel* does not, either alone or in combination with *Perrin*, disclose solid emulsion facilitating particles (as recited in claims 1, 29, and 63), and thus they do not necessarily disclose any substance having a fluid contact angle in the range recited in Applicants’ claims (*i.e.*, a fluid contact angle of from about 70° to about 140°). See MPEP at § 2112 (“To establish inherency, the extrinsic evidence ‘must make clear that the missing descriptive matter is necessarily present in the thing described in the reference ....’”).

Moreover, even if the emulsions produced by the combination of *Patel* and *Perrin* comprise solid particles—and there is no indication that they do—there is no indication that these emulsions are necessarily associated with a fluid contact angle of from about 70° to about 140°, as recited in Applicants’ claims. See *id.* None of *Patel*, *Perrin*, or any of the other articles cited in the Office Action even mention fluid contact angle, much less do they indicate that the hydrophobically-modified PSA disclosed in *Perrin* necessarily imparts a fluid contact angle of from about 70° to about 140°. As Applicants have explained, the fluid contact angle of the solid emulsion facilitating particle will depend various properties of the material, as described in C.W. Extrand, “Hysteresis in Contact Angle Measurements” in *Encyclopedia of Surface and Colloid Science*, 2414-29 (Arthur T. Hubbard ed., 2002) (“*Extrand*”). (A courtesy copy of this reference is included with this filing for the Examiner’s convenience.)

- Surface roughness and sharp edges on the particle surface (see pages 2415-16 and 2421-22 of *Extrand* (noting that “[i]t is widely agreed that roughness can contribute to hysteresis” a phenomenon that affects contact angle);
- Heterogeneity of the composition of the particle surface (see page 2416 of *Extrand*);
- Surface deformation by the liquid (see pages 2416-17 of *Extrand*); and
- Molecular interaction and rearrangement at the particle surface (see pages 2417-18 of *Extrand*).

See also “Contact Angle and Surface Characteristics,” Fraunhofer IGB, available at <http://www.igb.fraunhofer.de/www/GF/Grenzfl/Mem/gf-physik/en/GFphys-KontWinkel-Obfl.en.html> (2004) (a courtesy copy of this article was included with Applicants’ previous response). Thus, absent some disclosure of at least the surface topography of any particles of



hydrophobically-modified PSA in *Perrin*, which *Perrin* does not discuss or imply, those particles may or may not have the requisite properties to have a fluid contact angle of from about 70° to about 140°.

For at least these reasons, the combination of *Patel* and *Perrin* does not inherently disclose or teach this element of Applicants' claims, and thus cannot obviate those claims. See MPEP at § 2112 (the "fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic" (emphasis in original) (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993); *In re Robertson*, 169 F.3d 743, 745, 49 U.S.P.Q.2d 1949, 1950-51 (Fed. Cir. 1999); and *Metabolite Labs., Inc. v. Lab. Corp. of Am. Holdings*, 370 F.3d 1354, 1367, 71 U.S.P.Q.2d 1081, 1091 (Fed. Cir. 2004))).

**3. The Combination of Patel and Perrin Does Not Suggest a "Surfactant-Free" Emulsion.**

Finally, Applicants respectfully reiterate that neither *Patel* nor *Perrin* teaches a "surfactant-free" emulsion, as claims 1, 29, and 63 recite, and no permissible combination of *Patel* with *Perrin* can be used to produce a surfactant-free emulsion. The Office Action still cites no disclosure or embodiment of a surfactant-free emulsion in *Patel*. Rather, each and every emulsion described in *Patel* comprises a surfactant. The Office Action maintains that *Patel* teaches surfactant-free emulsions because the embodiments that comprise surfactants therein are merely "examples of a preferred embodiment," that "do not constitute a teaching away from a broader disclosure or nonpreferred embodiments." (Office Action at 9-10). Even if these examples do not explicitly teach away from excluding surfactants, *Patel* still provides no "broader disclosure or nonpreferred embodiment" of a surfactant-free emulsion on which the Office Action purports to rely for its rejection. Without such a disclosure, *Patel* cannot obviate claims 1, 29, and 63.

As Applicants discussed in their prior responses, even if *Patel* alone teaches a "surfactant-free" emulsion as the Office Action suggests, the hydrophobically-modified PSA solution from *Perrin* that the Office Action combines with *Patel* is itself a polymeric surfactant, as *Perrin* explicitly acknowledges. (See *Perrin* at 5977). To modify that combination to produce a "surfactant-free" emulsion would change the fundamental principle of *Perrin* that a surfactant is used to stabilize the emulsions discussed therein. See MPEP at § 2143.01 ("If the proposed modification or combination of the prior art would change the principle of operation of

the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious.”) Altering the basic principle of operation described in Perrin by making the emulsion “surfactant-free” renders the proposed combination or alteration unobvious, even without any further “teaching away” in Patel. Applicants presented this argument in their previous response, but the Office Action provides no response indicating why a modification of *Patel* and *Perrin* to produce a surfactant-free emulsion would nonetheless be obvious. Thus, the combination of *Patel* with a surfactant taught in *Perrin* cannot obviate claims 1, 29, and 63.

Because the combination of *Patel* and *Perrin* does not teach or suggest the inventions recited in claims 1, 29, and 63, and because the combination of *Patel* and *Perrin* would not produce the inventions recited in Applicants’ claims, that combination of references cannot obviate these claims. Moreover, since “a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers,” and since claims 2-9, 11-28, 30-41, 65, and 66 depend, either directly or indirectly, from independent claim 1, 29, or 63, these dependent claims are allowable for at least the same reasons. See 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicants respectfully request the withdrawal of these rejections.

**C. Rejections of Claims 10 and 64**

Claims 10 and 64 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Patel* in view of *Perrin* as discussed above, and further in view of a reference entitled “Crude Oil Emulsions: A State of the Art Review,” SPE 77497 by Sunil Kokal (“*Kokal*”). With respect to these rejections, the Office Action states:

Patel and Perrin were discussed above. Patel and Perrin do not expressly teach adding a breaker to the drilling fluid.

However, Kokal teaches that demulsification is the separation of an emulsion into its component phases to usually provide an aqueous component and an oil-phase component containing the desired hydrocarbon oil. (Page 5) Kokal further teaches that chemical demulsification (“breaking” by adding chemical demulsifiers) is the most common method of emulsion treatment. (Page 6-7)

Accordingly, it would have been obvious to a person of ordinary skill in the art, at the time that the invention was made, to include a breaker step in *Patel* and *Perrin*’s method of drilling/treating a subterranean formation comprising subsequently adding a chemical demulsifier to the invert-emulsion. It would have been

obvious to one skilled in the art to do so to be able to effectively attain/produce crude oil, with lower amount of water contamination, as taught by Kokal.

(Office Action at 8). In response to Applicants' prior remarks regarding these rejections, the Office Action states:

Applicant's arguments with respect to these 35 U.S.C. 103(a) rejection of claims 10 and 64 as unpatentable over Patel in view of Perrin, and further in view of Kokal, have been fully considered but deemed unpersuasive.

Applicant did not provide any substantive arguments in Response traversing the instant rejection except to state that the instant claims depend from independent claims that are allegedly patentable over Patel and Perrin. However, Applicant's arguments concerning Patel and Perrin were addressed above and were found unpersuasive.

Thus, the instant claims remain unpatentable over Patel, Perrin and Kokal.

(Office Action at 10). Applicants respectfully disagree with these rejections.

To form a basis for a § 103(a) rejection, a combination of prior art references must teach or suggest each element in the claim. MPEP at § 2142. The prior art must also suggest the combination of the prior art to produce the claimed invention. *Id.* at § 2143.01. However, as discussed in Section IV.A. above, the combination of *Patel* and *Perrin* does not teach or suggest each element of claims 1, 29, and 63, nor does it suggest a combination of *Patel* and *Perrin* that would produce the inventions recited in those claims. Since "a claim in dependent form shall be construed to incorporate by reference all the limitations of the claim to which it refers," and since claims 10 and 64 depend, either directly or indirectly, from independent claim 1 or 63, these dependent claims are allowable for at least the same reasons. *See* 35 U.S.C. § 112 ¶ 4 (2004). Accordingly, Applicants respectfully request the withdrawal of these rejections.

#### **V. No Waiver**

All of Applicants' arguments and amendments are without prejudice or disclaimer. Other arguments may exist, and Applicants reserve the right to discuss these additional arguments in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's

additional statements. The remarks provided by Applicants are sufficient to overcome the rejections and objections stated in the Office Action.

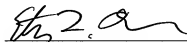
**SUMMARY AND PETITION FOR A ONE-MONTH EXTENSION OF TIME  
TO FILE THIS RESPONSE**

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Applicants hereby petition under the provisions of 37 C.F.R. § 1.136(a) for a one-month extension of time to file this Response, up to and including October 12, 2008. Since October 12, 2008 fell on a Sunday, this Response is considered timely filed.

The Commissioner is hereby authorized to debit Baker Botts L.L.P.'s Deposit Account No. 02-0383, Order Number 063718.0454, in the amount of \$120.00 for the fee under 37 C.F.R. § 1.17(a)(1) for the one-month extension of time to file this response. Should the Commissioner deem that any additional fees are due, including any fees for extensions of time, the Commissioner is authorized to debit Baker Botts L.L.P.'s Deposit Account No. 02-0383, Order Number 063718.0454.

Respectfully submitted,



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